

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH P. SHELTON,

Petitioner,

v.

JOHN C. MARSHALL, et al.,

Respondents.

Case No. 10-cv-01100-PJH

**ORDER ON PETITION FOR WRIT OF
HABEAS CORPUS**

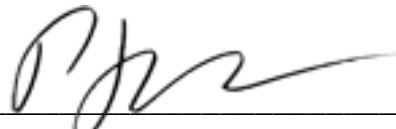
This habeas petition was remanded for issuance of a writ in accordance with the opinion of the Ninth Circuit filed August 7, 2015, reversing in part and affirming in part the denial of the habeas petition, as amended by the order entered November 23, 2015, granting the unopposed petition for rehearing. Mandate issued on December 2, 2015.

The Ninth Circuit directed the court to issue a writ with respect to petitioner's conviction for the first-degree murder of Kevin Thorpe, but held that no habeas relief was warranted with respect to the convictions for the second-degree murder of Laura Craig, kidnapping, or theft. Petitioner's release from custody was not, therefore, ordered by the Ninth Circuit. Accordingly, the petition for writ of habeas corpus is GRANTED IN PART. IT IS HEREBY ORDERED that the State commence proceedings to retry petitioner Joseph P. Shelton for the murder of Thorpe within 120 days of the date of this order, or take such other action as may be consistent with the opinion of the Ninth Circuit filed August 7, 2015, as amended by order entered November 23, 2015, and with federal and state law. *See Lujan v. Garcia*, 734 F.3d 917, 934-35 (9th Cir. 2013).

1 The Clerk shall serve a courtesy copy of this order upon the Lassen County
2 District Attorney's Office. The Clerk is further instructed to close the file.

3 **IT IS SO ORDERED.**

4 Dated: December 3, 2015

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7 PHYLLIS J. HAMILTON
8 United States District Judge
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